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Team 5

Issue A - #2 Opening of LHO's 201 File

On Saturday, October 31, 1959, Lee Harvey Oswald appeared at the American Embassy in Moscow where he expressed his desire to renounce his U.S. citizenship and to become a citizen of the Union of Soviet Socialist Republics. (Warren Report, p. 747.) Oswald's intentions were first announced to the receptionist at the Embassy and then to the consul, Richard E. Snyder, in the presence of his assistant, John E. McVickar. (Ibid., p. 747.) During this visit, Oswald also told Snyder that he had been an electronics specialist in the Marines and that he intended to convey his specialized knowledge to the Soviet government. (Warren Commission Exhibit 909, 18 H 101.)

Immediately after this unusual occurrence, several communications regarding Lee Harvey Oswald were issued from the Embassy in Moscow and disseminated to various federal agencies within the United States. The Central Intelligence Agency received at least two of the initial State Department

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communications regarding Oswald's defection.
(Warren Commission Exhibit 2752, 26 H 131.)
State Department Telegram No. 1304, dated 31
October 1959 stated that Oswald had recently been dis-
charged from the Marine Corps and that he had
offered Soviets any information he had acquired
as an enlisted radar operator. (Warren Commission
Exhibit 910, 18 H 105.) The other, Foreign
Dispatch No. 234, dated 2 November 1959, sets
forth the details of Oswald's meeting with Snyder.
(Warren Commission Exhibit 908, 18 H 97.)

Two other Naval communications contain
routing indicators that they were sent to the CIA.
One, dated 3 November 1959 from the Legal Attache
in Moscow states that Oswald "has offered to furnish
Soviets info he possesses on U.S. radar" (Warren
Commission Exhibit 917, 18 H 115) while a 4 November
1959 cable from the Commanding Naval Officer to
the Legal Attache in Moscow describes Oswald's
military status and background. This cable advises
that while Marine Corps Headquarters showed no
record of Oswald's clearance, there was a possibility

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that Oswald did have access to CONFIDENTIAL information in his position as an aviation electronics operator. (Warren Commission Exhibit 918, 18 H 116.)

Despite the fact that the CIA received this information that Oswald, a former Marine Corps radar operator, had defected to the Soviet Union and offered his knowledge of U.S. military information to the Soviets, the CIA told the Warren Commission that it did not open a 201 file on Oswald until December 9, 1960. The HSCA sought to determine whether this representation to the Warren Commission was correct and if it was, to determine why there was a delay of almost thirteen months between receipt of the information and the opening of a file on a person who posed a possible counterintelligence threat to the United States.

A review of Oswald's 201 file in its present form indicates that it contains the following documents dated prior to 9 December 1960:

1. State Department Telegram No. 1304 dated October 31, 1959;

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2. Newspaper article from The Washington Post dated November 1, 1959;
3. A CIA internal note dated 2 November 1959 regarding oral FBI request for a name check and negative reply dated 4 November 1959;
4. Foreign Service Dispatch No. 234 dated 2 November 1959;
5. State Department Telegram No. 1358 dated 9 November 1959;
6. State Department Telegram No. 1448 dated 9 November 1959;
7. Newspaper article from The Washington Post dated 16 November 1959;
8. Newspaper article from The Evening Star dated 26 November 1959;
9. Letter from J. Edgar Hoover, dated 25 May 1960 enclosing FBI reports;
10. Internal CIA Biographic Profile dated circa date May 1960;
11. Letter from the Department of State (Cummings) to DDP (Bissell) dated 25 October 1960;

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12. Response from DDP to Department of State
dated 21 November 1960.

These documents are among those that the CIA told the Warren Commission it possessed in its file on Oswald prior to the Kennedy assassination. (CIA FOIA Document #590-252) However, review of the 201 file revealed that this file contains only photostatic copies of these documents rather than the originals. It also revealed that the two naval communications dated November 3rd and 4th, 1959, do not appear in the file.

The HSCA requested that the CIA provide a list of documents in its possession regarding Lee Harvey Oswald and any of his aliases prior to the opening of Oswald's 201 file, as well as an indication of where each document was located within the Agency prior to that date. (Letter from HSCA to CIA, 3/9/78.)

To date, the Agency has responded by providing a listing from the Deputy Directorate for Operations and one from the Office of Security. The DDO explained that its records do not consistently indicate when each document was received by the CIA. At the

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time of the Kennedy assassination, the DDO ran a records check and came up with a comprehensive listing of documents held at that time, but the Directorate is unable to determine specifically which documents it held prior to the opening of the file. (Note: This was the original explanation as written by Russ Holmes, but it's no longer available to the HSCA.)

The Office of Security also responded by providing a listing of the contents of its Oswald file at the time of the assassination which was almost identical to the one provided by the DDO. These documents, which were primarily the originals of the documents received by the Agency were maintained in an "MS" file on Oswald. "MS" files were miscellaneous files used by the Office of Security for anything other than employee files. (HSCA Staff Summary of interview of CIA employee, 6/13/78, p. 2.) Any document or newspaper clipping regarding a matter of a security nature could be cause for opening an MS file to be used for future reference. (Ibid.)

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The Office of Security file on Oswald bears no indicator as to when the file was opened, nor is there a clear indication on any of the documents as to when they were received by that office. Some of the documents contain handwritten notations but the HSCA has been unable to identify the writing on the first document, a newspaper clipping, to determine if the writer was the person who opened the file and if so, when this was done.

The HSCA inquired as to the CIA's dissemination and record-keeping procedures for non-CIA documents received during the period 1959 - 1963 in an effort to determine what components would have received these early State Department and Navy documents regarding LHO. The Agency's response indicated that it is impossible to make such a determination at this point in time. According to the CIA reply, dissemination of both CIA and non-CIA documents has always been on the basis of formalized, written dissemination requirements levied by each office in keeping with its mission and functions. (CIA Memorandum, Director of Central Reference to NFAC Records Management Office, 9/18/78.)

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These requirements are submitted to the Office of Central Reference where they are utilized by professional document analysts who read the incoming documents, match the contents against the requirements and mark the documents for dissemination within the Agency. (Ibid.)

In regard to the procedures for maintaining records on dissemination, the CIA provided the following explanation:

"Dissemination records for non-CIA documents sent to CIA requesters by OCR are maintained whenever one or both of the following conditions exists: (1) the national security classification of the documents is above a certain level; (2) the documents are of a type subject to formalized archival storage regulations. Archival retention of records relating to document dissemination is currently established at 5 years. Records of dissemination for documents received from 1959-1963 should have been destroyed prior to the records destruction moratorium presently in force." (Ibid.)

Thus, even if the documents regarding Lee Harvey Oswald met the conditions that required dissemination records, those records would have been destroyed well over ten years ago. It is therefore impossible

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to determine in this manner which offices received the documents in question.

The problem that exists here is that the Office of Security is not known to *does NOT open 201 file* open 201 files as those

files are a means of identifying persons of

interest to the Operations Directorate (or the

Clandestine Service in 1959). (Deposition of

William Lawson, 6/27/78, p. 9.) Nor ~~is~~ ^{does} the Office

of Security known to pass information to the

Operations Directorate for the purpose of a 201

file opening. (Ibid., p. 10.) Consequently, if

a document is routed only to the Office of Security,

as it appears the 31 October 1959 cable may have

been, there may be no action taken on it. The

Office of Security may open a file on the person

involved which would be consulted if that individual

were to seek employment with the CIA. However, it

is possible and even probable, that the document

would not go to a component, such as the Soviet

Russia Division or the Counterintelligence Staff,

that would actively take notice of the person's

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activities.

The Agency position is not entirely clear as to the importance of the information contained in such a document as the 31 October 1959 cable.

Some of the CIA personnel deposed by the HSCA expressed a belief that the information in the cable was not terribly important in and of itself.

(Deposition of B. Hugh Tovar, 6/29/78, p. 31.)

However, persons associated with the Deputy Director of Operations agree that the substance of the document merits attention and that this document alone would have been sufficient to warrant the opening of a 201 file on Oswald. (Deposition of William Larson, 6/27/78, p. 48; Deposition of Richard M. Helms, 9/9/78, p. 6; Deposition of Birch D. O'Neal, 7/20/78, p. 34.)

The CIA was requested to provide a statement regarding the criteria utilized by the Agency in opening 201 files on individuals during the years 1958-1963. (HSCA Letter to CIA, 2/21/78.) The Agency's response consisted of providing two sets of written regulations. One set of regulations

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was effective as of 15 February 1960 and the other was effective as of 15 November 1974. The CIA maintains that there are no written regulations in effect prior to those of February 1960 and explains that those were included to reflect the situation as it existed in the period 1958-1964. (2/28/78 Memorandum attached to "CIA Response to HSCA request of 21 February 1978.")

The earlier set of regulations is primarily a basic statement of the definition and purpose of 201 numbers rather than a detailed statement of criteria for opening such files. The substance of the document is as stated below:

"A relatively small portion of the total number of personalities indexed by the CS (Clandestine Service) are of active operational interest at any given point in time. These are normally subjects of extensive reporting and CI investigation, prospective agents and sources, and members of groups and organizations of continuing target interest. Each of these personalities is assigned either a 201 number or an IDN number." (CIA's Clandestine Service Handbook, 43-1-1, 2/15/60, p. 43.)

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It is explained that the 201 number serves the purposes of bringing the files on these individuals into the Clandestine Services' records system, serving as a means of identification in future reporting on the individual and providing a means for producing machine listings concerning individuals who fall into particular geographical and functional areas of interest. (Ibid.) The IDN number was explained as being of use in identifying persons who lack sufficient interest or information to warrant a 201 file but who are of operational interest due to their connection with a target group or organization. (Ibid.) IDN numbers are no longer used as part of the Agency's records system. (HSCA Deposition of William Larson, 6/27/78, pp. 70-71.)

The 15 November 1974 set of regulations essentially describes the 201 system in much the same manner as the earlier set of regulations, but in much greater detail. The Chief of the CIA's Information Management Staff told the HSCA that the more comprehensive, detailed regulations of

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recent years are in keeping with the evolution of the records system and the changes brought to bear upon the system by the introduction of computers in 1962. (Ibid., p. 71.)

He described three general categories of persons on whom 201 files should be opened. These include: 1) individuals in whom an operational element of the Directorate of Operations has an operational interest; 2) individuals in whom a counterintelligence interest is expressed; and 3) individuals for whom at least 5 documents or document references are found in the course of running a name trace. (Ibid., p. 5.) While these regulations are clearly delineated in the 1974 guidelines, they are probably much the same as those that effectively governed 201 file openings in 1959. (Ibid., p. 5.)

The later regulations do include a section on automatic 201 file openings for specific categories of individuals in certain foreign countries, but there are no specified criteria for automatically opening a 201 file on an

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American. (2/28/78 CIA Response to HSCA Request of 2/21/78.) The 1960 handbook has no section on automatic 201 file openings. (Ibid.)

A review of Oswald's 201 file by the HSCA indicates that the file contains some post-assassination documents which state conflicting bases for the file opening. One memorandum, written in 1975, states that prior to the assassination, five documents had been sent to the CIA: two from the FBI, two from the State Department and one from the U.S. Navy. (CIA FOIA Document #1188-1000, p. 4.). According to the memorandum, Oswald's 201 file had been opened on 9 December 1960 on the basis of the receipt of the first five documents. (Ibid.) However, the earliest date of any of the documents the Agency claims to have had on file prior to 22 November 1963 was 31 October 1959, the date of the first State Department telegram advising of Oswald's defection to the USSR and his offer of information to the Soviets. As previously described, the file also contains several more State Department documents that are

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dated in early November of 1959. The only document from the U.S. Navy that is contained in the file was written in 1962. There are also several FBI documents concerning Oswald dating from 25 May 1960. Therefore, the opening of a 201 file on Oswald on 9 December 1960 still does not appear to correspond to the receipt by the Agency of any one of these early documents.

Another memorandum, written the same day, passes this information on from the Counter-intelligence Staff to the Executive Assistant to the Deputy Director of Operations, stating that "Lee Harvey Oswald's 201 file was first opened under the name of Lee Henry Oswald on December 9, 1960 as a result of his "defection" to the USSR on 10/31/59 and renewed interest in Oswald brought about by his queries concerning possible reentry into the United States." (CIA FOIA Document #1187-436). This explanation as to the timing of the file opening also remains open to question as there is no indicatin from State

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Department or other agencies' documents that Oswald made any inquiries regarding returning to the United States until at least mid-February of 1961. (Warren Commission Exhibits 931-933, 18 H 131-135.)

Generally, one would be able to determine the specific document that serves as the basis for a 201 file opening by looking at the standard "Field Personality (201) File Request form. Each form contains a section in which the "source document" for the opening of the file is to be referenced. However, Oswald's 201 file opening request proves again to be the exception to the rule. The form which opens his file is dated 9 December 1960 and is from Ann Egerter in CI/SIG. (CIA FOIA Doc #1-1-B.) Instead of citing a particular document as the basis for the file opening, the component "CI/SIG" is referenced as the "source document."

Ann Egerter provided the HSCA with her explanation regarding the opening of Oswald's 201 file. Her initial recollection was that her

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first knowledge of Oswald came as a result of her receipt of a State Department request for a list of United States defectors to the Soviet Union. (HSCA Staff Interview of CIA Employee, 3/31/78, p. 5., JFK Class. Doc. #77.) Upon receiving this request, she went to various departments within the CIA in order to assemble a list of defectors on whom she could run name traces through RID, the central records index. (Ibid.) Egerter recalled that, through her RID check, she obtained a newspaper clipping on Lee Oswald. (Ibid.) After compiling all the information on her list of names, she wrote a memorandum in reply to the State Department request with a short paragraph on each of the persons she had found. (Ibid.) She explained that because the project had been so time-consuming, she had opened a 201 file on each person. (Ibid.)

In fact, the CIA did receive such a request from the State Department in a letter dated 25 October 1960. The State Department expressed an interest in compiling "a complete listing of those

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Americans now living in Bloc countries who might be called 'defectors'" (State Dept. letter, Hugh S. Cumming, Jr. to Richard S. Bissell, 10/25/60, DDP.) The letter defined defectors as follows:

"...those who have either been capable of providing useful intelligence to the Bloc or those whose desire to resettle in Bloc countries has been significantly exploited for communist propaganda purposes. This would mean that no attention need be paid to Americans whose resettlement within the Bloc had no counterintelligence implications or had attracted no particular attention; for instance, this definition would not cover individual U.S. citizens of East European or Chinese origin who returned to the "homeland" because they had never been completely assimilated into the American society." (Ibid.)

However, the State Department attached to the letter

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a list of twelve persons who fit the above-described criteria. The attached list included one Lee Harvey Oswald, who was described as a "tourist." (Ibid.)

This was apparently the same request and list received by Ann Egerter in CI/SIG as the 3 November 1960 interim reply from Bissel to Cummings acknowledging receipt of the 25 October request was written by Birch D. O'Neal, the Chief of CI/SIG and Ann Egerter's immediate supervisor. The CIA's final response to the State Department on 21 November 1960 contains a paragraph of background information on each of the defectors, which is the same information Mrs. Egrter claims to have prepared in response to the State Department request. This response also contains information regarding two additional defectors whom the Agency wished to bring to the attention of the State Department.

The HSCA conducted a review of the CIA's 201 files on selected American defectors in order to accomplish two purposes with respect to the opening of 201 files. One was specifically to

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check the dates of the 201 file openings on those individuals listed in the 25 October 1960 State Department request in order to verify Ann Egerter's story that the opening of Oswald's 201 file was a result of that request. The other purpose was generally to determine the amount of time that elapsed between the time an American citizen defected to a Bloc country and the date that the CIA would open a 201 file on that individual.

A 201 file review of those persons appearing on the State Department's list essentially confirmed Egerter's story. Of the twelve persons listed by the State Department, the Agency was able to locate 201 files on all but one person, one Sgt. (FNU) Jones. The file review revealed that 201 files had been opened on six of the remaining eleven individuals prior to the Agency's 21 November 1960 response to the State Department. Ann Egerter opened 201 files on the five remaining individuals on the list during the month of December 1960. In each of

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these cases, which included Lee Harvey Oswald, CI/SIG was cited as the "source document" in the 201 file opening request.

The other aspect of the file review was to determine the CIA's standard procedure with respect to opening 201 files on American defectors in order to assess whether the delay between Oswald's defection and the opening of his 201 file was exceptional or if, in fact, this type of delay was a common occurrence. This review included the fourteen defectors listed in the CIA's 21 November 1960 response to the State Department. In addition, the Committee reviewed the files of the defectors as described in Issue #1.

In the case of the thirteen persons on whom files were located from the 21 November 1960 response, the CIA had opened 201 files on four of the defectors prior to their defection. In only three of the remaining nine cases were files opened on individuals at the time of their defection. Each of these cases was highly publicized. One of